



February 11, 2009

## HOUSE BILL No. 1604

DIGEST OF HB 1604 (Updated February 10, 2009 4:50 pm - DI 75)

**Citations Affected:** IC 6-9; IC 36-10.

**Synopsis:** Fort Wayne capital improvement board. Changes the name of the Fort Wayne-Allen county convention and tourism authority to the Allen County-Fort Wayne capital improvement board of managers. Transfers any excess Allen County food and beverage tax revenue that is not needed to pay obligations (bond, loan, or lease) in existence on January 1, 2009, to the Allen County-Fort Wayne capital improvement board. Provides that the board must deposit the amount transferred into a reserve account, where it must be held for 12 months. Allows the board to transfer interest on the reserve account and amounts on deposit for more than 12 months to the board's capital improvement fund. Provides that, after June 30, 2009, the board must approve any food and beverage tax pledge for bonds, loans, or leases. Requires the executive director of the Allen County Memorial Coliseum to file an annual report of operations with the capital improvement board on or before December 31 each year. Requires the executive manager of the capital improvement board to file an annual report of operations with the capital improvement board on or before December 31 each year. Repeals superseded provisions.

**Effective:** July 1, 2009.

**GiaQuinta, Borrer, Moses, Bell**

January 16, 2009, read first time and referred to Committee on Local Government.  
February 10, 2009, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

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February 11, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1604

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-9-33-5 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2009]: Sec. 5. The county supplemental food  
3 and beverage tax imposed on a food or beverage transaction described  
4 in section 4 of this chapter may not exceed one percent (1%) of the  
5 gross retail income received by the merchant from the transaction. For  
6 purposes of this chapter, the gross retail income received by the retail  
7 merchant from such a transaction does not include the amount of tax  
8 imposed on the transaction under IC 6-2.5. ~~or IC 6-9-23.~~

9 SECTION 2. IC 6-9-33-8 IS AMENDED TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2009]: Sec. 8. **(a)** If a tax is imposed under  
11 section 3 of this chapter, the county treasurer shall establish a  
12 supplemental coliseum improvement fund. The county treasurer shall  
13 deposit in this fund all amounts received from the tax imposed under  
14 this chapter. Money in this fund:

15 (1) may be appropriated only  
16 (1) for acquisition, improvement, remodeling, or expansion of; or  
17 (2) to retire or advance refund bonds issued, loans obtained, or

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lease payments incurred under IC 36-1-10 (referred to in this chapter as "obligations") to remodel, expand, improve, or acquire an athletic and exhibition coliseum in existence before the effective date of an ordinance adopted under section 3 of this chapter, **with respect to obligations for which a pledge of revenue received under this chapter was made before January 1, 2009; and**

**(2) shall be used to make transfers required by subsection (b).**

**(b) There is established a food and beverage tax reserve account to be administered by the capital improvement board of managers (IC 36-10-8). Any money deposited in the supplemental coliseum improvement fund after June 30, 2009, that is not needed in a year to make payments on obligations for which a pledge of revenue under this chapter was made before January 1, 2009, shall be transferred to the capital improvement board. The county treasurer shall make the transfer before February 1 of the following year. The capital improvement board shall deposit the money it receives in the board's food and beverage tax reserve account. Money in the reserve account may not be withdrawn or transferred during the year it is received except to make transfers back to the county to make payments on obligations for which a pledge of revenue under this chapter was made before January 1, 2009. However, the capital improvement board may transfer:**

**(1) interest earned on money in the reserve account; and**

**(2) an amount equal to the balance that has been held in the reserve account for at least twelve (12) months;**

**to the board's capital improvement fund established by IC 36-10-8-12.**

SECTION 3. IC 6-9-33-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. ~~(a) The county may enter into an agreement under which amounts deposited in; or to be deposited in; the supplemental coliseum expansion fund are pledged to payment of obligations issued to finance the remodeling, expansion, or maintenance of an athletic and exhibition coliseum under section 8 of this chapter:~~

~~(b)~~ **(a)** Obligations entered into **before January 1, 2009**, for the acquisition, expansion, remodeling, and improvement of an athletic and exhibition coliseum shall be retired by using money collected from a tax imposed under this chapter.

~~(c)~~ **(b)** With respect to obligations for which a pledge has been made under ~~subsection (a); this section before January 1, 2009~~, the general assembly covenants with the holders of these obligations that:

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(1) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed under this chapter; and

(2) this chapter will not be amended in any manner that will change the purpose for which revenues from the tax imposed under this chapter may be used;

as long as the payment of any of those obligations is outstanding.

SECTION 4. IC 6-9-33-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11. On or before December 31 each year, the executive director of the World War Memorial Coliseum shall submit to the capital improvement board of managers an annual report of the operations of the coliseum.**

SECTION 5. IC 36-10-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. The board may, acting under the name "(name of county) county capital improvement board of managers", or, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), "~~(name of the city) and (name of the county) county convention and tourism authority~~", "**(name of the county) and (name of the city) capital improvement board of managers**", do the following:

(1) Acquire by grant, purchase, gift, devise, lease, or otherwise, and hold, use, sell, lease, or dispose of, real and personal property and any rights and interests in it necessary or convenient for the exercise of its powers under this chapter.

(2) Construct, reconstruct, repair, remodel, enlarge, extend, or add to any capital improvement under this chapter and condemn, appropriate, lease, rent, purchase, and hold any real property, rights-of-way, materials, or personal property needed for the purposes of this chapter, even if it is already held for a governmental or public use.

(3) Control and operate a capital improvement, and receive and collect money due to the operation or otherwise relating to the capital improvement, including employing an executive manager and other agents and employees that are necessary for the acquisition, construction, and proper operation of the improvements and fixing the compensation of all employees with a contract of employment or other arrangement terminable at the will of the board. However, a contract may be entered into with an executive manager and associate manager for a period not longer than four (4) years at one (1) time and may be extended from time to time for the same or shorter periods.

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(4) Let concessions for the operation of restaurants, cafeterias, public telephones, news and cigar stands, vending machines, caterers, and all other services considered necessary or desirable for the operation of a capital improvement.

(5) Lease a capital improvement or a part of it to any association, corporation, or individual, with or without the right to sublet.

(6) Fix charges and establish rules and regulations governing the use of a capital improvement.

(7) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or foundations and funds, loans, or advances on the terms that the board considers necessary or desirable from the United States, the state, or a political subdivision or department of either, including entering into and carrying out contracts and agreements in connection with this subdivision.

(8) Acquire the site for a capital improvement, or a part of a site by conveyance from the redevelopment commission of a city within the county in which the board is created or from any other source, on the terms that may be agreed upon.

(9) If the board was created under IC 18-7-18 (before its repeal on February 24, 1982), exercise within and in the name of the county the power of eminent domain under general statutes governing the exercise of the power for a public purpose.

(10) Receive and collect all money due for the use or leasing of a capital improvement and from concessions and other contracts, and expend the money for proper purposes, but any employees or members of the board authorized to receive, collect, and expend money must be covered by a fidelity bond, the amount of which shall be fixed by the board. Funds may not be disbursed by an employee or member of the board without prior specific approval by the board.

(11) Provide coverage for its employees under IC 22-3 and IC 22-4.

(12) Purchase public liability and other insurance considered desirable.

(13) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including the enforcement of them.

(14) Maintain and repair a capital improvement and all equipment and facilities that are a part of it, including the employment of a building superintendent and other employees that are necessary to maintain the capital improvement.

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(15) Sue and be sued in its own name, service of process being had upon the president or vice president of the board or by leaving a copy at the board's office.

(16) Prepare and publish descriptive material and literature relating to the facilities and advantages of a capital improvement and do all other acts that the board considers necessary to promote and publicize the capital improvement and serve the commercial, industrial, and cultural interests of Indiana and its citizens by the use of the capital improvement. It may assist and cooperate with public, governmental, and private agencies and groups for these purposes.

(17) Promote the development and growth of the convention and visitor industry in the county.

(18) Transfer money from the capital improvement fund established by this chapter to any Indiana not-for-profit corporation for the promotion and encouragement of conventions, trade shows, visitors, and special events in the county.

SECTION 6. IC 36-10-8-16, AS AMENDED BY P.L.146-2008, SECTION 796, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county or, if the **authority board** was created under IC 18-7-18 (before its repeal on February 24, 1982), also of the city, if the board determines that the estimated annual net income of the capital improvement, plus the estimated annual tax revenues to be derived from any tax revenues made available for this purpose, will not be sufficient to satisfy and pay the principal of and interest on all bonds issued under this chapter, including the bonds then proposed to be issued.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall have prepared a resolution to be adopted by the county executive authorizing the issuance of general obligation bonds, or, if the **authority board** was created under IC 18-7-18 (before its repeal on February 24, 1982), by the fiscal body of the city authorizing the issuance of general obligation bonds. The resolution must set forth an itemization of the funds and assets received by the board, together with the board's valuation and certification of the cost. The resolution must state the date or dates on which the principal of the bonds is payable, the maximum interest rate to be paid, and the other terms upon which the bonds shall be issued. The board shall submit the proposed resolution to the proper officers, together with a certificate to the effect that the issuance of bonds in accordance with

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the resolution will be in compliance with this section. The certificate must also state the estimated annual net income of the capital improvement to be financed by the bonds, the estimated annual tax revenues, and the maximum amount payable in any year as principal and interest on the bonds issued under this chapter, including the bonds proposed to be issued, at the maximum interest rate set forth in the resolution. The bonds issued may mature over a period not exceeding forty (40) years from the date of issue.

(c) Upon receipt of the resolution and certificate, the proper officers may adopt them and take all action necessary to issue the bonds in accordance with the resolution. An action to contest the validity of bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The provisions of all general statutes relating to:

(1) the filing of a petition requesting the issuance of bonds and giving notice;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

(3) the giving of notice of the determination to issue bonds;

(4) the giving of notice of a hearing on the appropriation of the proceeds of bonds;

(5) the right of taxpayers to appear and be heard on the proposed appropriation;

(6) the approval of the appropriation by the department of local government finance; and

(7) the sale of bonds at public sale;

apply to the issuance of bonds under this section.

SECTION 7. IC 36-10-8-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21. (a) This section applies only to a board that was created under IC 18-7-18 (before its repeal on February 24, 1982).**

**(b) On or before December 31 each year, the executive manager shall submit to the board an annual report of the operations of the convention and visitor center.**

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 6-9-23; IC 6-9-33-10.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1604, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1604 as introduced.)

SMITH V, Chair

Committee Vote: yeas 12, nays 0.

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